

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FLOW BEVERAGES INC.

Plaintiff,

v.

C.A. No. 23-1256-CFC

SMART BOOKS NOW INC.

JURY TRIAL DEMANDED

Defendant.

**[PROPOSED] ORDER GRANTING MOTION FOR PERMANENT
INJUNCTION**

At Wilmington this 7th day of August, 2024, having considered Plaintiff's Motion for Permanent Injunction ("the Motion"),

IT IS HEREBY ORDERED that the Motion is GRANTED.

1. Defendant Smart Books Now Inc., including any aliases or alternative identities used, owned or controlled by it ("SBN"), and its officers, employees, agents, servants, employees, attorneys, and all persons in active concert or participation with them, are hereby permanently enjoined from:
 - a. Using in any manner the FLOW trademarks (Reg. Nos. 3870219 and 5816345) (the "FLOW Marks") or any marks, names, trade dress, designs, symbols or devices that are identical, substantially

indistinguishable from, confusingly similar to any of the FLOW Marks, on or in connection with SBN's non-genuine and materially different FLOW bottled water;

- b. Passing off, falsely advertising, inducing or enabling others to sell or pass off any products as products produced by Flow Beverages, which are not in fact Flow Beverages' products, or which are materially different from Flow Beverages' products authorized to be sold in the United States, or otherwise not produced under the control and supervision of Flow Beverages and/or approved by Flow Beverages for advertising and sale under the FLOW Marks;
- c. Committing any acts calculated to cause consumers to believe that SBN's products are sold under the control or supervision of Flow Beverages, or that they are sponsored or approved by, connected with, guaranteed by, or produced under the control and supervision of Flow Beverages when they are not;
- d. Shipping, delivering, transferring, or otherwise disposing of, in any manner, products or inventory which consists of non-genuine or materially different products bearing the FLOW Marks or any mark confusingly similar thereto;

- e. Otherwise unfairly competing with Flow Beverages in any manner; and
- f. Aiding, assisting, or abetting any other person or business entity engaging in or performing any of the activities referred to in subparagraphs 2(a)-(e) above.

2. Defendant Smart Books Now Inc. is hereby ordered to:

- a. Withdraw and retract from the marketplace in the United States all products, product packaging and displays, advertisements, commercials, and other materials in connection with bottled water or other beverages, regardless of where those materials are situated in the distribution chain (including, without limitation, affiliates, related companies, agents, and retailers), that consist of, bear, or display Flow Beverages' FLOW Marks, and/or any marks, names, trade dress, and designs that are confusingly similar to or likely to dilute or tarnish the FLOW Marks (including, without limitation, Defendant's non-genuine and materially different bottled water products bearing any of the FLOW Marks);
- b. Destroy all products and materials that consist of, bear, or display Flow Beverages' FLOW Marks on bottled water or other beverages or any other unauthorized uses of the FLOW Marks, or any marks,

names, trade dress, and designs that are confusingly similar to or likely to dilute or tarnish such marks, in accordance with 15 U.S.C. § 1118 and other applicable laws;

- c. Withdraw, retract, and/or destroy as applicable all advertisements (including within online marketplaces such as Amazon), commercials, and other materials containing: (1) any of the false or misleading statements complained of herein; and (2) any false, misleading, or deceptive statements regarding Flow Beverages, Flow Beverages' products, or Defendant's products bearing any of the FLOW Marks; and
- d. File with this Court and serve on Flow Beverages' attorneys, thirty (30) days after the date of entry of any injunction, a report in writing and under oath setting forth in detail the manner and form in which it has complied with the injunction;

Pursuant to Fed. R. Civ. P. 62(a), execution on this final judgment shall not be stayed.

Dated: August 7, 2024



Chief United States District Court Judge